

# **<sup>1</sup>GARFIELD COUNTY CULTURAL RESOURCE PROTECTION ORDINANCE 2007-5**

**WHEREAS,** Garfield County recognizes the value and importance of heritage and culture, including but not limited to, natural history, historical activities, architecture, agricultural industries, archaeological, economic enterprises, engineering, cultural resources, sites, and artifacts; and

**WHEREAS,** Garfield County supports efforts to preserve, develop, interpret, use, and enjoy the history, heritage, culture, and traditional activities in the County; and

**WHEREAS,** Cultural Resources have monetary, cultural, and intrinsic value; and

**WHEREAS,** Cultural Resources that are removed from the County result in a loss of monetary, cultural, and intrinsic values; and

**WHEREAS,** Garfield County desires to have increased interpretive opportunities associated with cultural resources and desires to have a facility within the County where residents and visitors may view, handle, appreciate, use, and enjoy such artifacts; and

**WHEREAS,** There is not currently such a facility in the County; and

**WHEREAS,** Garfield County desires to increase educational opportunities associated with cultural resources; and

**WHEREAS,** There is no set criteria for determining outstandingly, remarkable, and important relevant values associated with cultural resources; and

**WHEREAS,** Various groups and individuals are increasingly using cultural resources to incorrectly justify restrictions of multiple use activities on the lands in Garfield County; and

**WHEREAS,** Garfield County is **opposed** to speculative consideration of cultural resources,

**NOW THEREFORE, IT IS ORDAINED BY THE GARFIELD COUNTY COMMISSION TO HEREBY ADOPT THE PROTECTION OF CULTURAL RESOURCES AS FOLLOWS:**

## **PROTECTION OF CULTURAL RESOURCES**

An ordinance establishing the uniform definitions, standards, and procedures to be followed by all land managers/persons in providing protection for cultural resources located on lands in Garfield County.

Establishing a Cultural Preservation Commission

To survey and inventory County cultural resources,

To review proposed nominations to the National Register of Historic Places,

To review and designate “Outstandingly Remarkable” and “Relevant - Important” cultural resources,

To review applications for certificates of appropriateness,

To provide advice and information to County officials and other governmental officials, and

To support enforcement of federal, state and local cultural preservation laws, and

Making technical changes.

Adopting this Ordinance as part of the County’s General Plan

## **PROTECTION OF CULTURAL RESOURCES**

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## **SECTION 1        PROTECTION OF CULTURAL RESOURCES**

### **1.1        PURPOSE**

(a) This ordinance implements provisions of the Archaeological Resources Protection Act of 1979, as amended (16 U.S.C. 470aa-mm) by establishing the uniform definitions, standards, and procedures to be followed by all land managers/persons in providing protection for cultural resources located on lands in Garfield County. These regulations enable land managers and local officials to protect cultural resources, taking into consideration State and Federal statutes, through permits authorizing excavation and/or removal of cultural resources, through penalties for unauthorized excavation and/or removal, through provisions for the preservation of cultural resource collections and data, and through provisions for sharing of information about specific resources when disclosure would create a benefit to the resource.

(b) The ordinance does not impose any new restrictions on activities permitted under other laws, authorities, and regulations relating to mining, mineral leasing, reclamation, and other multiple uses of the public lands.

(c) The ordinance establishes a Garfield County register of cultural resources, a County register of cultural landmarks and establishes procedures for their use.

(d) The ordinance establishes criteria for designating cultural resources as *Outstandingly Remarkable or Important - Relevant* in connection with federal land management processes and special designation evaluations and creates a County register of outstandingly remarkable / relevant – important cultural resources.

### **1.2        AUTHORITY**

(a) This ordinance is compatible with existing law which requires that the Federal land managers jointly develop uniform rules and regulations for carrying out the purposes of Federal protection acts.

(b) Federal law provides that each Federal land manager shall promulgate such rules and regulations, consistent with the uniform rules and regulations as may be necessary for carrying out the purposes Federal preservation acts.

(c) In addition to federal regulations, the Utah State Legislature has recognized the value and interest of cultural resources to the public. Utah Code Annotated ~~17A-3-13~~ 17-50-326 authorizes Counties to:

- (1) Preserve, protect and enhance cultural sites and areas;
- (2) Insure proper development and utilization of lands adjacent to cultural sites and areas.

(d) U.C.A ~~17-50-302~~ 17-50-316 authorizes County Commissions to exercise powers and perform functions related to the safety, health, morals, and welfare

of County inhabitants. implement necessary laws and ordinances for the protection of the public health and welfare within their jurisdiction including the development of historic, cultural and other resources.

(e) U.C.A 17-50-316 authorizes County Commissions to provide for the protection and the development of historical, cultural and other resources.

### **1.3 DEFINITIONS**

As used for purposes of this ordinance:

(a) Archaeological Resource means any material remains of human life or activities which are at least 100 years of age, and which are of archaeological interest.

(1) Of archaeological interest means capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation.

(2) Material remains means physical evidence of human habitation, occupation, use, or activity, including the site, location, or context in which such evidence is situated.

(3) The following classes of material remains (and illustrative examples), if they are at least 100 years of age, are of archaeological interest and shall be considered archaeological resources unless determined otherwise pursuant to paragraph (a)(4) or (a)(5) of this section:

(i) Surface or subsurface structures, shelters, facilities, or features (including, but not limited to, domestic structures, storage structures, cooking structures, ceremonial structures, artificial mounds, earthworks, fortifications, canals, reservoirs, horticultural/agricultural gardens or fields, bedrock mortars or grinding surfaces, rock alignments, cairns, trails, borrow pits, cooking pits, refuse pits, burial pits or graves, hearths, kilns, post molds, wall trenches, middens);

(ii) Surface or subsurface artifact concentrations or scatters;

(iii) Whole or fragmentary tools, implements, containers, weapons and weapon projectiles, clothing, and ornaments (including, but not limited to, pottery and other ceramics, cordage, basketry and other weaving, bottles and other glassware, bone, ivory, shell, metal, wood, hide, feathers, pigments, and flaked, ground, or pecked stone);

(iv) By-products, waste products, or debris resulting from manufacture or use of human-made or natural materials;

- (v) Organic waste (including, but not limited to, vegetal and animal remains, coprolites);
- (vi) Human remains (including, but not limited to, bone, teeth, mummified flesh, burials, cremations);
- (vii) Rock carvings, rock paintings, intaglios and other works of artistic or symbolic representation;
- (viii) Rock shelters and caves or portions thereof containing any of the above material remains;
- (ix) Any portion or piece of any of the foregoing.

(4) The following material remains shall not be considered of archaeological interest, and shall not be considered to be archaeological resources for purposes of the Act and this part, unless found in a direct physical relationship with archaeological resources as defined in this section:

- (i) Paleontological remains;
- (ii) Coins, bullets, and unworked minerals and rocks.

(5) The Commission may determine that certain material remains, in specified areas of Garfield County, and under specified circumstances, are not or are no longer of cultural interest and are not to be considered cultural resources under this ordinance. Any determination made pursuant to this subparagraph shall be documented. Such determination shall in no way affect the land manager's/person's obligations under other applicable laws or regulations.

(b) Arrowhead means any projectile point which appears to have been designed for use with an arrow.

(c) Cultural Resource includes, but is not limited to, any object, building, structure, site, area, place, activity, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural development of Garfield County.

(d) Land Manager means:

(1) With respect to any public lands, the secretary of the department, or the head of any other agency or instrumentality of the United States, having primary management authority over such lands, including persons to whom such management authority has been officially delegated;

(2) In the case of Indian lands, or any public lands with respect to which no department, agency or instrumentality has primary

management authority, such term means the Secretary of the Interior;

(3) The Secretary of the Interior, when the head of any other agency or instrumentality has, pursuant to section 3(2) of the Act and with the consent of the Secretary of the Interior, delegated to the Secretary of the Interior the responsibilities (in whole or in part) in this ordinance.

(e) Outstandingly Remarkable / Relevant-Important means: rare, unique or regionally exemplary. Federal regulation is largely silent on definitions for outstandingly remarkable/relevant - important values. Minimum standards apply for cultural resources in Garfield County as described in specific sections of this ordinance.

(f) Public Land means:

- (1) Lands which are owned and administered by the United States as part of the National Park system, the National Wildlife Refuge system, or the National Forest system; and
- (2) All other lands the fee title to which is held by the United States, except Indian lands.

(g) Indian Land means lands of Indian tribes, or Indian individuals, which are either held in trust by the United States or subject to a restriction against alienation imposed by the United States, except for subsurface interests not owned or controlled by an Indian tribe or Indian individual.

(h) Indian Tribe as defined in the Act means:

- (1) Any Indian tribe, band, nation, other organized group, or community which is included in the annual list of recognized tribes published in the Federal Register by the Secretary of the Interior pursuant to 25 CFR part 54;
- (2) Any other tribal entity acknowledged by the Secretary of the Interior pursuant to 25 CFR part 54 since the most recent publication of the annual list;

(i) Person means an individual, corporation, partnership, trust, institution, association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the United States, or of any Indian tribe, or of any State or political subdivision thereof.

(j) Region of Comparison means geographical areas comprised of the State of Utah, the Colorado Plateau, the Four Corners Area, and the traditional lands of the Anasazi, Paiute, and Navajo tribes.

(k) Site Of Religious Or Cultural Importance means a location which has traditionally been considered important because of a religious event which happened there; because it contains specific natural products which are of religious or cultural importance; because it is believed to be the dwelling place of, the embodiment of, or a place conducive to communication with spiritual beings; because it contains elements of life-cycle rituals, such as burials and associated materials; or because it has other specific and continuing significance in Garfield County religion or culture.

#### **1.4 PROHIBITED ACTS AND CRIMINAL PENALTIES**

(a) No person may excavate, remove, damage, or otherwise alter or deface, or attempt to excavate, remove, damage, or otherwise alter or deface any **cultural or** archaeological resource located on public lands or Indian lands unless such activity is pursuant to a permit issued by Garfield County or exempted by Sec. 1.5(b) of this Ordinance.

(b) No person may sell, purchase, exchange, transport, or receive any archaeological resource, if such resource was excavated or removed in violation of:

- (1) The prohibitions contained in paragraph (a) of this section; or
- (2) Any provision, rule, regulation, ordinance, or permit in effect under any other provision of Federal, State or Local law.

(c) No person may destroy, eliminate, diminish, or remove any cultural resource listed on the Garfield County register of Cultural Resources:

- (1) In violation of any rule, regulation, ordinance, or permit in effect under any other provision of Federal, State or Local law; **and or**
- (2) Without Approval of Garfield County.

(d) A person is guilty of a class B misdemeanor if that person:

- (1) Violates this part of the ordinance; or
- (2) Counsels, solicits, or employs any other person to violate this part.

#### **1.5 PERMIT REQUIREMENTS AND EXCEPTIONS**

(a) Any person proposing to excavate and/or remove archaeological resources from lands in Garfield County, and to carry out activities associated with such excavation and/or removal, or proposing to destroy, eliminate, diminish, or remove any cultural resource listed on the Garfield County register of Cultural Resources shall apply to the Garfield County for a permit for the proposed work, and shall not begin the proposed work until a permit has been issued. Garfield County may issue a permit to any qualified person, subject to appropriate terms and conditions, provided that the person applying for a permit meets conditions in Sec. **1.7 (a) and** 1.8 (a) of this part.

(b) Exceptions:



(1) No permit shall be required under this part for any person conducting activities on ~~Garfield County~~ lands ~~in Garfield County~~ under other permits, leases, licenses, or entitlements for use, when those activities are exclusively for purposes other than the excavation and/or removal of archaeological resources, even though those activities might incidentally result in the disturbance of archaeological resources. General earth-moving, excavation, road work, mining, drilling conducted under a permit or other authorization shall not be construed to mean excavation and/or removal as used in this part. This exception does not, however, affect the person's responsibility to comply with other authorities which protect archaeological resources.

(2) No permit shall be required under this part for any person collecting for private purposes any rock, coin, bullet, or mineral which is not an archaeological resource, provided that such collecting does not result in disturbance of any archaeological ~~or cultural~~ resource.

(c) Persons carrying out official agency duties under a Federal/State land manager's direction, associated with the management of archaeological resources, need not follow the permit application procedures if the Federal/State Land Manager has obtained a permit for such activities for resources within his/her ~~boundary jurisdiction~~. However, the Federal/State land manager shall insure that permit provisions are met if activities affect any cultural resource listed on the Garfield County Register of Cultural Resources.

#### 1.6 **APPLICATION FOR PERMITS AND INFORMATION COLLECTION**

(a) Any person may apply to Garfield County for a permit to excavate and/or remove archaeological resources from or to impact cultural resources in Garfield County and to carry out activities associated with ~~such~~ actions.

(b) Each application for a permit shall include:

(1) The nature and extent of the work proposed, including how and why it is being conducted, proposed time of performance, location maps, and proposed outlet for public written dissemination of the results.

(2) The name and address of the individual(s) proposed to be responsible for conducting the work and carrying out the terms and conditions of the permit, institutional affiliation, if any, and evidence of education, training, and experience in accord with the minimal qualifications listed in Sec. ~~1.7(a)(1) 1.8(a)~~.

(3) Evidence of the applicant's ability to initiate, conduct, and complete the proposed work, including other permits issued for the work, evidence of logistical support and laboratory facilities.

- (4) Where the application is for the excavation and/or removal of archaeological resources from Garfield County:
- (A) The name of the institution in which the applicant proposes to store all items derived from the proposed work.
  - (B) Reasons, if any, why the items cannot remain in Garfield County for the use, benefit and enjoyment of the County's residents and visitors.
  - (C) Proposed plans for returning the items for the use, benefit and enjoyment of the County's residents and visitors.

- (5) Where the application is for the destruction, elimination, diminishment, or removal of any cultural resource listed on the Garfield County register of Cultural Resources:
- (A) The scientific information justifying the action.
  - (B) Resources allocated for in kind replacement and/or equal compensation for loss of the resource.
  - (C) Alternatives available for completing the action without impacting the resource.
  - (D) How the action complies with Garfield County's no net loss of cultural resources policy.

- (6) Where the proposed activity (including management actions) positively or negatively impacts an Outstandingly Remarkable or Relevant-Important feature:
- (A) Evidence the feature is listed ~~as Outstandingly Remarkable or Relevant-Important~~ on the Garfield County register of ~~Outstandingly Remarkable – Relevant Important~~ Cultural Resources;
  - (B) Proposed impacts to the feature, including improved opportunities for public benefit, use and enjoyment;
  - (C) Alternatives to the proposed action and comparative benefits and detriments to the resource, including opportunities for public benefit, use and enjoyment;

(c) Garfield County may require additional information, pertinent to cultural resource protection responsibilities, to be included in the application for permit and shall so inform the applicant.

## **1.7 ISSUANCE OF PERMITS**

- (a) Garfield County may issue a permit, for a specified period of time appropriate to the work to be conducted, upon determining that:

- (1) The applicant is appropriately qualified, as evidenced by training, education, and/or experience, and possesses demonstrable competence in relative to the type and scope of the work;
- (2) The proposed work furthers Garfield County's policies regarding cultural resources and is in the public interest;
- (3) The proposed work, including time, scope, location, and purpose, is not inconsistent with the County's General Management Plan or if inconsistent no other reasonable alternative exists and adequate replacement/compensation for lost cultural resources is being provided;
- (4) The proponent understands and is willing to comply with all Federal, State, and Local laws pertaining to cultural resources;
- (5) Every reasonable effort has been made to improve the opportunity for benefit, use and enjoyment of cultural resources for Garfield County's residents and visitors.

(b) When the area of the proposed work would cross jurisdictional boundaries, so that permit applications must be submitted to more than one Federal land manager, the Federal land managers shall coordinate permitting requirements with the County.

#### **1.8 TERMS AND CONDITIONS OF PERMITS**

(a) In all permits issued, Garfield County may specify:

- (1) The nature and extent of work;
- (2) The name of responsible individual(s);
- (3) The location in which any collected materials and data shall be deposited; and
- (4) Public education, interpretive and/or reporting requirements.

(b) The County may specify such terms and conditions as deemed necessary to protect public safety, and other values and/or resources, to secure work areas, to safeguard other legitimate land uses, and to limit activities incidental to work authorized under a permit.

(c) Initiation of work or other activities under the authority of a permit signifies the permittee's acceptance of the terms and conditions of the permit.

#### **1.9 SUSPENSION AND REVOCATION OF PERMITS**

(a) Suspension or revocation for cause.

- (1) Garfield County may suspend a permit issued pursuant to this ordinance upon determining that the permittee has failed to meet any of the terms and conditions of the permit or has violated Federal, State or Local law. The County shall provide written notice to the permittee of the suspension, the cause thereof, and the requirements which must be met before the suspension will be removed.

(2) The County may revoke a permit upon the permittee's conviction under laws protecting cultural resources, or upon determining that the permittee has failed after notice under this section to correct the situation which led to suspension of the permit.

(b) Suspension or revocation for management purposes. Garfield County may suspend or revoke a permit, without liability to the County, its agents, or employees, when continuation of work under the permit would be in conflict with County Management Plan requirements not in effect when the permit was issued. The County shall provide written notice to the permittee stating the nature of and basis for the suspension or revocation.

#### **1.10 APPEALS RELATING TO PERMITS**

Any affected person may appeal permit issuance, denial of permit issuance, suspension, revocation, and terms and conditions of a permit before the County Commission, or through procedures which may be established pursuant to this ordinance.

#### **1.11 RELATIONSHIP TO SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT**

Issuance of a permit in accordance with this ordinance does not constitute an undertaking requiring compliance with section 106 of the Act of October 15, 1966 (16 U.S.C. 470f). However, the mere issuance of such a permit does not excuse the permittee from compliance with section 106 where otherwise required.

#### **1.12 CUSTODY OF ARCHAEOLOGICAL RESOURCES**

(a) Archaeological resources excavated or removed from the public lands remain the property of legal authority.

(b) Until such time as Garfield County promulgates requirements for ultimate disposition of its cultural resources, permittees are encouraged to utilize viable facilities located in the County.

(c) The County may provide for the exchange of resources with other entities.

#### **1.13 DETERMINATION OF RESOURCE VALUE AND COST OF RESTORATION AND REPAIR**

(a) Resource value. The resource value of any cultural resource shall be determined in accordance with principles outlined in 43 CFR Part 7.14(a) as modified to conform to resources protected by this ordinance.

(b) Commercial value. The commercial value of any cultural resource shall be determined in accordance with principles outlined in 43 CFR Part 7.14(b) as modified to conform to resources protected by this ordinance.

(c) Cost of restoration and repair. The cost of restoration and repair of any cultural resource damaged as a result of a violation of this ordinance shall be determined in accordance with principles outlined in 43 CFR Part 7.14(c) as modified to conform to resources protected by this ordinance.

#### **1.14 CONFIDENTIALITY OF ARCHAEOLOGICAL RESOURCE INFORMATION**

(a) Federal law prohibits land managers from making certain information available to the public for specific cultural resources. Land managers and permittees may mask nature and location information only to the extent that it complies with law for protected resources. Garfield County shall not make available to the public any information protected by law. The following information shall be provided by land managers and permittees:

- (1) General descriptions of the resource and its significance;
- (2) Resource/ site dimensions and graphical representations of the area on which resources are located;
- (3) Information justifying Outstandingly Remarkable / Relevant Important values;
- (4) Any other information necessary for the County to administer this ordinance.

(b) Land managers considering portions of Garfield County for special designation status (Areas of Critical Environmental Concern, Wild and Scenic Rivers, Conservation Areas, Monuments, Parks, etc.) based on cultural resource values shall document compliance with criteria for Outstandingly Remarkable/Relevant-Important values as defined by County plans and ordinances.

#### **1.15 PUBLIC AWARENESS PROGRAMS**

(a) Each permittee or land manager impacting cultural resources will establish programs to:

- (1) Increase public awareness of the need to protect important cultural resources; and
- (2) Advance the benefit, use and enjoyment of cultural resources in Garfield County.

(b) Each permittee or land manager impacting cultural resources should incorporate into current actions public education and interpretation programs where appropriate.

#### **1.16 SURVEYS AND SCHEDULES**

(a) Federal land managers are required to develop plans and schedules for surveying specific cultural resources that are likely to contain the most scientifically valuable resources. Garfield County has established survey priorities as follows:

- (1) Level II or Level III surveys, as appropriate, for resources impacted by current, proposed or imminent projects;
- (2) Level III surveys for resources considered Outstandingly Remarkable / Relevant-Important;
- (3) Level I, Level II or Level III surveys for other resources.

(b) Failure to plan, schedule and conduct surveys in accordance with the priorities in Section 1.16(a) without written County approval is:

- (1) A violation of ~~this the~~ ordinance; and
- (2) Inconsistent with the County Management Plan.

#### **1.17 DETERMINATION OF LOSS OR ABSENCE OF CULTURAL INTEREST**

(a) Under certain circumstances, Garfield County may determine, pursuant to ~~Section 1.2 or~~ Section 1.3(a)(5) of this part, that certain material remains are not or are no longer of cultural interest, and therefore are not to be considered cultural resources under this part.

(b) Garfield County may make such a determination if the County finds that the ~~resources material remains~~ are not capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics.

(c) Prior to making a determination that ~~resources material remains~~ are not or are no longer ~~protected cultural archaeological~~ resources, Garfield County may complete some or all of the following procedures:

- (1) A professional evaluation of ~~resources material remains~~ and similar materials within the area under consideration will be completed.
- (2) The State Historic Preservation Officer will be requested to recommend whether the ~~resources material remains~~ under consideration contribute to scientific or humanistic understandings of past human behavior, cultural adaptation and related topics.

(d) The County will make the determination based upon established facts and recommendations of knowledgeable individuals and will document the basis.

(e) The County will make public record of the determination and any permitting requirements for activities associated with the materials determined not to be cultural resources.

(f) Any determination made pursuant to this section shall in no way affect any person's obligations under other applicable laws or regulations.

#### **1.18 PROCEDURAL INFORMATION FOR SECURING PERMITS**

Information about procedures to secure a permit to impact cultural resources can be obtained from Garfield County

### **1.19 PERMIT REVIEWS AND DISPUTES**

(a) Any affected person disputing Garfield County's decision with respect to the issuance or denial of a permit, the inclusion of specific terms and conditions in a permit, or the modification, suspension, or revocation of a permit may request the County Commission review the disputed decision and may request a meeting to discuss the decision and its basis.

(b) Any affected person may request a review by the State Historic Preservation Officer of any professional issues involved in a County permitting decision. The State Historic Preservation Officer may make a recommendation to Garfield County. Garfield County will consider the recommendation, but may reject it, in whole or in part, for good cause. This request should be in writing, and should state the reasons for the request.

## **SECTION 2 CULTURAL PRESERVATION COMMISSION, REGISTER OF CULTURAL RESOURCES, REGISTER OF CULTURAL LANDMARKS, REGISTER OF OUTSTANDINGLY REMARKABLE / RELEVANT - IMPORTANT CULTURAL RESOURCES, REGISTER OF OUTSTANDINGLY REMARKABLE / RELEVANT - IMPORTANT SCENIC CULTURAL RESOURCES**

### **2.1 PURPOSE**

Garfield County recognizes that the cultural heritage of the County is among its most valued and important assets. It is therefore the intent of Garfield County to identify, preserve, protect, develop, and enhance cultural resources located within the limits of Garfield County.

### **2.2 AUTHORITY**

Utah Code Annotated ~~17A-3-13~~ 17-50-326 authorizes Counties to:

- (1) Preserve, protect and enhance cultural sites and areas;
- (2) Insure proper development and utilization of lands adjacent to cultural sites and areas.

### **2.3 CULTURAL PRESERVATION COMMISSION**

A Cultural Preservation Commission is hereby established by Garfield County with the following provisions:

- (1) The Commission shall consist of a minimum of five members with a demonstrated interest, competence, or knowledge in cultural preservation, appointed by the County for terms of not less than two years.
- (2) To the extent available in the County, two Commission members may be professionals, as defined by National Park Service regulations,



from the disciplines of history, archaeology, planning, architecture, engineering or architectural history.

(3) The Commission shall meet at least twice each year and conduct business in accordance with the Open Public Meeting laws of Utah. This includes public notification of meeting place, time and agenda items.

(4) Written minutes of each Commission meeting shall be prepared and made available for public inspection.

(5) Until such time as the County Commission identifies qualified individuals for the Cultural Preservation Commission, the Garfield County Planning Commission shall be authorized to fill the duties.

## **2.4 CULTURAL PRESERVATION COMMISSION DUTIES**

The Cultural Preservation Commission shall have the following duties:

(1) The Cultural Preservation Commission shall conduct or cause to be conducted a survey of the cultural resources within the County. The survey shall be, at a minimum, compatible with the Utah Inventory of Historic and Archaeological Sites. Survey and inventory documents shall be maintained and shall be open to the public. The survey shall be updated at least every ten years.

(2) The Cultural Preservation Commission shall review and make recommendations to the County Commission for comment to the State Historic Preservation Officer on all proposed National Register nominations for resources within the boundaries of Garfield County. When the Cultural Preservation Commission considers a National Register nomination, which is normally evaluated by professionals in a specific discipline and that discipline is not represented on the Commission, the Commission shall seek expertise in that area before forwarding its recommendation to the County Commission.

(3) The Cultural Preservation Commission shall review and make recommendations to the County Commission for designation of “Outstandingly Remarkable” and “Relevant - Important” cultural resources within the boundaries of Garfield County. Review and recommendation of “Outstandingly Remarkable” and “Relevant - Important” cultural resources shall comply with the standards for “Outstandingly Remarkable” and “Relevant - Important” cultural resources contained in this ordinance.

(4) The Cultural Preservation Commission shall review and make recommendations to the County Commission on all proposed Garfield County Register of Cultural Resources and Register of Cultural Landmark nominations for resources within the boundaries of Garfield County.

(5) The Cultural Preservation Commission shall provide advice and information by:



(A) Acting in an advisory role to other officials and departments of government regarding the identification and designation of local cultural resources.

(B) Working toward expanding the benefit, use and enjoyment of local cultural resources by the residents and visitors of Garfield County.

(6) The Cultural Preservation Commission shall support the enforcement of federal, state and local laws relating to cultural preservation, including but not limited to:

(A) U.C.A. 17-50-326 47A-3-13, Preservation of historical areas and sites; "The Historic District Act;"

(B) U.C.A. 9-8-3, regarding the protection of Utah antiquities;

(C) U.C.A. 9-8-4, regarding notification of the State Historic Preservation Office of any known proposed action which will destroy or affect a site, building or object owned by the State of Utah and included on or eligible for the State or National Registers; and

(D) This ordinance.

## **2.5 CULTURAL PRESERVATION OFFICER**

The County Planner assisted by the County Engineer is hereby designated as the Garfield County Cultural Preservation Officer.

## **2.6 CULTURAL PRESERVATION OFFICER DUTIES**

The Cultural Preservation Officer shall have the following duties:

(1) Serve as the point of contact for governmental entities, citizens and individuals interested in cultural resources of the County.

(2) Serve in an advisory capacity to the Cultural Preservation Commission.

(3) Maintain the Garfield County Register of Cultural Resources, the Garfield County Register of Cultural Landmarks Register, and the Register of Outstandingly Remarkable / Relevant - Important Cultural Resources including such classifications and designations as may be approved by the County Commission.

## **2.7 GARFIELD COUNTY REGISTER OF CULTURAL RESOURCES**

(a) The Cultural Preservation Commission may recommend to the County Commission cultural resources for designation on the Garfield County Register of Cultural Resources. Upon review, the County Commission may designate cultural resources for inclusion on the Garfield County Register of Cultural Resources as a means of classifying, recognizing, preserving, protecting, enhancing, or increasing benefit, use and enjoyment of cultural resources in the County.

(b) Any activity, business, district, building, structure, object, resource, scenery, or site may be designated to the Register of Cultural Resources if it meets all of the following criteria:

- (1) It is located within the official boundaries of the county.
- (2) It is at least 50 years old.
- (3) It retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant cultural features.

(c) Major alterations that ~~may would~~ destroy cultural integrity include, but are not limited to:

- (1) Changes in the main appearance;
- (2) Enlargement or reduction of principal features;
- (3) Additions to or removal of original features;
- (4) Covering the resource with non-historic materials;
- (5) Moving the resource from its original location to one that is dissimilar to the original;
- (6) Additions which significantly detract from or obscure the original form or appearance.

(d) If the resource does not meet the integrity requirements outlined above, it may qualify for designation if it meets one of the following requirements:

- (1) It is directly associated with events of historic importance in the County.
- (2) It is closely associated with the lives of persons who were of historic importance to the County.
- (3) It exhibits significant methods of construction or materials that were used within the historic period.
- (4) It has been documented according to the Utah State Historic Preservation Office standards for intensive level surveys and copies of that documentation have been placed in the public record.
- (5) It demonstrates a long and dignified human history or consists of resources that are outstanding in their variety of cultural affiliation, type and distribution.

## **2.8 DESIGNATION PROCEDURES**

(a) Any person, group, or government agency may nominate a resource under its ownership or jurisdiction for listing in the Garfield County Register of Cultural Resources. The nomination and listing procedures are as follows:

- (1) Completed intensive level survey documentation for each nominated property must be submitted to the Cultural Preservation Commission.
- (2) The Cultural Preservation Commission will review and consider properly submitted nominations at its next scheduled meeting. The Cultural Preservation Commission will notify the nominating party

prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting.

(3) The Cultural Preservation Commission will review the documentation for completeness, accuracy and compliance with the criteria listed in section 2.7 **2.9** and will make recommendation to the County Commission accordingly.

(4) The County Commission will review the recommendation of the Cultural Preservation Commission and any other pertinent information at a regularly scheduled Commission meeting and will make a decision accordingly.

(5) No resource shall be included on the Garfield County Register of Cultural Resources if the **private** property owner or manager with **ceded** jurisdiction over the resource is not in favor of the designation.

(b) Designation of a resource to the Garfield County Register of Cultural Resources results in the following:

(1) Owners of designated cultural resources may display information recognizing the resource and containing the historic name of the property, the date of designation, and the appropriate designation.

(2) If a designated cultural resource **artifact** is to be impacted or extensively altered, efforts will be made to document its physical appearance before that action takes place.

(A) Any demolition / impact permit may be delayed for a maximum of thirty (30) days to allow for the documentation.

(B) Documentation may include photographs, exterior / interior measurements, drawings, histories, video documentation, and any other information that may be valuable or required.

(C) The demolition/impact permit will be issued after thirty (30) days of the initial application whether or not the documentation has been completed. Permits may be issued earlier if the documentation is complete or part of the permitted work.

(D) Documentation will be kept in the public record or forwarded to the State Historic Preservation Office.

(3) If a designated cultural resource activity is to be negatively impacted or diminished, efforts will be made to mitigate impacts with greater resources before that action takes place.

(A) Any demolition / impact permit may be delayed for a maximum of one hundred eighty (180) days to allow for replacement resources to be developed.

(B) Replacement resources may include new resources, expanded existing resources, improved resources, or other efforts that result in no net loss of cultural resource values.

(C) The demolition/impact permit may be delayed for an additional period after the one hundred eighty (180) day period from the initial application if mitigation has not been completed.

Permits may be issued earlier if the mitigation is complete or part of the permitted work.

(D) Documentation of replacement value may be required prior to issuance of the permit.

(c) Properties which, in the opinion of the Garfield County Commission, no longer meet the criteria for eligibility may be removed from the Garfield County Register of Cultural Resources after review and consideration.

## **2.9 GARFIELD COUNTY CULTURAL LANDMARK REGISTER**

(a) Notable cultural resources may be designated to the Cultural Landmark Register for the purposes of recognizing their value and providing incentives and guidelines for their preservation.

(b) Any activity, business, district, building, structure, object, resource, scenery, or site may be designated to the Cultural Landmark Register if it meets the following criteria:

(1) It is located within the official boundaries of the County.

(2) It is currently listed in the National Register of Historic Places, and a copy of the approved National Register form has been placed in the public record.

(3) A property not yet listed in the National Register must:

(A) Retain its historic integrity; and

(B) Meet at least one of the following National Register criteria:

(i) Be associated with events that have made a notable contribution to the broad patterns of our history; or

(ii) Be associated with the lives of persons notable in our past; or

(iii) Embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a notable and distinguishable entity whose components may lack individual distinction; or

(iv) Have yielded, or be likely to yield, information important in prehistory or history.

(4) It has been documented according to the Utah State Historic Preservation Office standards for intensive level surveys or National Register standards, and a copy of that documentation has been placed in the public record.

(5) No resource shall be included on the Garfield County Cultural Landmark Register unless private property owner or manager with ceded jurisdiction approval is obtained as follows:

- (A) The owner of a private resource must approve the action to designate the resource on the Garfield County Cultural Landmark Register.
- (B) 70 percent of the resource owners in a proposed district must be in favor of the designation. Written objections from at least 30 percent of the resource owners will constitute lack of approval.
- (C) Public land managers must concur for public resources within their **ceded** jurisdiction to be included on the Garfield County Cultural Landmark Register. Failure to concur with such designation constitutes a determination of lack of significance on behalf of the agency.

## **2.10 DESIGNATION PROCEDURES**

- (a) Any person, group, or government agency may nominate a resource under its ownership or jurisdiction for listing in the Garfield County Cultural Landmark Register. The nomination and listing procedures are as follows:
  - (1) Completed intensive level survey documentation for each nominated property must be submitted to the Cultural Preservation Commission.
  - (2) The Cultural Preservation Commission will review and consider properly submitted nominations at its next scheduled meeting. The Cultural Preservation Commission will notify the nominating party prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting.
  - (3) The Cultural Preservation Commission will review the documentation for completeness, accuracy and compliance with the criteria listed in section **2.9 2.12** and will make recommendation to the County Commission accordingly.
  - (4) The County Commission will review the recommendation of the Cultural Preservation Commission and any other pertinent information at a regularly scheduled Commission meeting and will make a decision accordingly.
  - (5) No resource shall be included on the Garfield County Cultural Landmark Register if the **private** property owner or manager with **ceded** jurisdiction over the resource is not in favor of the designation.
- (b) Following designation by the County Commission, a notice of such shall be mailed to the owners of record together with a copy of this ordinance. In the case of landmark district designation, notice of such may be placed in the local newspaper or in a public building rather than mailed to each owner of a resource in the district. The County Commission shall record the Cultural Landmark Register designation for each resource with the County Recorder's Office.
- (c) Designation of a resource to the Garfield County Register of Cultural Resources results in the following:

(1) Resources designated on the Cultural Landmark Register may receive special consideration in the granting of variances or conditional use permits in order to encourage development for the benefit, use and enjoyment by the public.

(2) In the event of rehabilitation of the property, local building officials may consider waiving certain code requirements in accordance with Chapter 34 of the Uniform Building Code and with the Uniform Code for Building Conservation.

(3) Owners of Cultural Landmarks may seek assistance from the Cultural Preservation Commission in applying for grants or tax credits for rehabilitating or developing their resources for the benefit, use and enjoyment by the public.

(4) Proposed work or management changes on resources designated as Cultural Landmarks is subject to the review and approval of the County. The purpose of this review is to ensure the preservation, development and enhancement of cultural properties to the greatest degree possible. This review applies to individually designated landmark resources, resources located in designated landmark districts, and public resources. This review applies only to exterior work which requires a building, sign, or demolition permit and to management actions that affect public resources and lands adjacent thereto.

(A) Applications for building, demolition, or sign permits shall be recommended by the Building Inspection Department to the Cultural Preservation Commission prior to their issuance/denial.

(B) At its next scheduled meeting, the Cultural Preservation Commission shall review the application and proposed work for compliance with design guidelines adopted by the County Commission.

(i) Applicants whose proposed projects comply with the provisions of this ordinance shall be issued the appropriate permit.

(ii) Applicants whose proposed projects are found to be in non-compliance with this ordinance shall be offered a negotiating period of sixty (60) days, during which time the Commission and applicant shall explore all options for an acceptable solution. These may include the feasibility of modifying the plans, using the cultural landmark for alternative purposes, or reselling the property to another party. The Cultural Preservation Commission may extend the negotiating period for additional sixty (60) day periods for the purposes described above if deemed necessary to accommodate a potential solution.

(iii) If no solution has been agreed upon at the conclusion of either the initial sixty-day (60) period or an extended period the Building Official will not issue any permits.

- (C) Applicants for work or changes in management actions that affect public resources listed on the Cultural Landmark Register shall apply directly to the County Commission for consideration.
- (5) The Cultural Preservation Commission may approve a permit for Rehabilitation or Demolition of a landmark property if the owner has presented substantial evidence demonstrating that unreasonable economic hardship will result from denial of the request.
  - (A) In order to sustain a claim of unreasonable economic hardship, the Cultural Preservation Commission may require the owner/manager to provide information as to whether the property is capable of producing a reasonable return for the owner.
  - (B) Demonstration of economic hardship by the owner shall not be based on conditions resulting from willful or negligent acts by the owner, purchasing the property for substantially more than market value at the time of purchase, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal improvements.
- (6) An applicant who has been denied any permit by the Building Official, based on the Cultural Preservation Commission's refusal to issue a permit, may appeal that decision to the County Commission. The appeal must be made within 120 days of the Cultural Preservation Commission's decision.

(d) Properties which, in the opinion of the County Commission, no longer meet the criteria for eligibility may be removed from the Cultural Resource Landmark Register after review and consideration.

(e) The provisions of this section are subject to the enforcement provisions established in the Uniform Building Code, Uniform Code for Building Conservation, Uniform Housing Code as adopted by Garfield County and to other provisions as allowed by federal, state and local law.

## **2.11 STANDARDS FOR REHABILITATION AND DESIGN GUIDELINES**

(a) The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as modified to conform to the exigencies of Garfield County shall be used by the Cultural Preservation Commission in determining the appropriateness of any application pertaining to Cultural Landmark properties.

(b) The following general design guidelines shall be considered and apply where appropriate:

- (1) For landmark buildings and contributing buildings in landmark designated historic districts:
  - (A) Avoid demolition of landmark and contributing buildings.

(B) Vacant buildings should be weather and vandal proofed in order to minimize further deterioration and the threat to public safety.

(C) Rehabilitation work on the exterior and the principal façade should preserve existing historic features or replace them with features and materials known to have existed on the building.

(D) Avoid moving buildings when possible. If buildings must be moved, the new site should be similar to the original site and the original setback and orientation of the building on the lot should be replicated as much as practical.

(2) For additions to landmark and contributing buildings and construction of new buildings within a historic district.

(A) New additions to landmark and contributing buildings should be subordinate to the original building, that is, lower in height, attached to the rear or set back along the side, and subordinate in scale and architectural detailing.

(B) Height, width, setback, roof shape, and the overall scale and massing of new buildings should be compatible with surrounding historic buildings and the overall streetscape.

(C) Materials on at least the primary facade(s) should be similar to original materials on facades of surrounding historic buildings.

(D) Architectural details should not replicate historic features on surrounding historic buildings.

(E) Window and door openings should be similar in size and orientation to openings on historic buildings and should take up about the same percentage of the overall facade as those on surrounding historic buildings.

(F) The relationship of the width to the height of the principal elevations should be in scale with surrounding structures and streetscape. Wider new buildings can be divided into segments that more closely resemble the facade widths of historic buildings.

(G) The roof shape of a building should be visually compatible with the surrounding structures and streetscape. Unusual roof shapes, pitches, and colors are discouraged.

## **2.12 GARFIELD COUNTY REGISTER OF OUTSTANDINGLY REMARKABLE / RELEVANT - IMPORTANT CULTURAL RESOURCES**

Rare, unique, exemplary Cultural Resources may be designated on the Garfield County Register of Outstandingly Remarkable / Relevant - Important Cultural Resources for the purposes of recognizing their greater than local significance and providing incentives and guidelines for their preservation and the enjoyment of present and future generations.

(a) The Cultural Preservation Commission may recommend to the County Commission cultural resources for designation on the Garfield County Register



of Outstandingly Remarkable / Relevant - Important Cultural Resources. Upon review, the County Commission may designate cultural resources for inclusion on the Garfield County Register of Outstandingly Remarkable / Relevant - Important Cultural Resources as a means of identifying and recognizing cultural resources that are rare, unique, exemplary, significant, and deserving of special designation, protection, and use.

(b) Outstandingly Remarkable / Relevant - Important cultural resources are resources that are rare, unique, exemplary, significant, and deserving of special designation, protection, and use. They are outstanding, remarkable, one of a kind resource that deserve special management when compared to other similar resources in the **region of comparison**.

(c) Any activity, business, district, building, structure, object, resource, scenery, or site may be designated on the Register of Outstandingly Remarkable / Relevant - Important Cultural Resources if it is located within the official boundaries of the county, has been the subject of a Class III inventory, is approved by the County Commission, and at least 95% of the proposed area meets any of the following minimum criteria:

(1) The resource is of sufficient value that it is the site of public or private facilities that enhance interpretive opportunities for the public. Parks, museums, monuments, businesses, and other permanent designations qualify cultural resources for this criterion. Examples within the region of comparison include but are not limited to: Anasazi State Park, Pipe Springs National Monument, Fremont Indian State Park, CEU Museum, American West Heritage Center, This is the Place State Park, Emery County Museum, Edge of the Cedars State Park, etc.

(2) The resource is of sufficient value that it requires paid or volunteer staff to assist with interpretation and/or protection the resource. The presence of on site guides, hosts, rangers, guards, specialists, or other similar staff for a minimum of 500 hours per year qualifies cultural resources for this criterion. Examples within the region of comparison include but are not limited to: Defiance House, Mormon Handcart Sites, Sand Island, Grand Gulch, Pine Lake Campground, etc.

(3) The resource is of sufficient value that it is the subject of guided or self guided tours promoted by land management agencies or private businesses. Resources that receive a minimum average visitation of 200 visits per month qualify for this criterion. Examples within the region of comparison include but are not limited to: San Juan River Site Tours, Cedar Mesa, Kane Gulch, Cowboy Cave, etc.

(4) The resource is of sufficient renown that its location and nature are well known and recognizable throughout the intermountain region. Resources that have been the subject of not less than 10 statewide mass media feature articles or programs qualify for this criterion. Examples within the region of comparison include but are not limited

to: Mormon Tabernacle, Range Creek, Nine Mile Canyon, Mormon Handcart Sites, Hole in the Rock, etc.

(5) The resource value has been demonstrated to the Garfield County Commission in at a public hearing and the Outstandingly Remarkable / Relevant - Important nature has been documented by a preponderance of the evidence.

(6) Resources that are the basis of an ACEC / Wild and Scenic River designation do not qualify for Outstandingly Remarkable / Relevant - Important status unless they meet one of the criteria above.

## **2.13 DESIGNATION PROCEDURES**

(a) Any person, group, or government agency may nominate a resource under its ownership or **ceded** jurisdiction for listing in the Garfield County Register of Outstandingly Remarkable / Relevant-Important Cultural Resources. The nomination and listing procedures are as follows:

(1) Documentation for each nominated property must be submitted to the Cultural Preservation Commission.

(A) For archaeological resources, a Level III survey is required.

(B) For all resources, completed intensive level survey information is required.

(C) Evidence the resource meets minimum criteria of Section 2.12 is required.

(D) A legal description and accurate plat to planning grade standards is required.

(2) The Cultural Preservation Commission will review and consider properly submitted nominations at its next scheduled meeting. The Cultural Preservation Commission will notify the nominating party prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting.

(3) The Cultural Preservation Commission will review the documentation for completeness, accuracy and compliance with the criteria listed in section 2.12 and will schedule a public hearing accordingly.

(A) The public hearing will be advertised in a newspaper of local circulation for a minimum of 30 days prior to the hearing.

(B) Advertising costs will be borne by the nominating entity.

(C) In the case of economic hardship, the advertising costs may be borne by the County.

(4) The Cultural Preservation Commission will conduct the public hearing and receive all pertinent information. Upon completion of the public hearing, the Cultural Preservation Commission will forward a recommendation to the County Commission for approval/denial of Outstandingly Remarkable / Relevant-Important status.

(5) The County Commission will review the recommendation of the Cultural Preservation Commission and any other pertinent information

at a regularly scheduled Commission meeting and will schedule a second public hearing.

(A) The public hearing will be advertised in a newspaper of local circulation for a minimum of 30 days prior to the hearing.

(B) Advertising costs will be borne by the nominating entity

(C) In the case of economic hardship, the advertising costs may be borne by the County.

(6) The County Commission will conduct the public hearing and receive all pertinent information. Within 30 days of the public hearing, the County Commission will approval or deny Outstandingly Remarkable / Relevant-Important Cultural Resource status.

(A) The County Commission's decision will be made in an open public meeting.

(B) The County Commission will provide written notice to the nominating entity its decision.

(7) No resource shall be included on the Garfield County Register of Outstandingly Remarkable / Relevant-Important Cultural Resources if the **private** property owner or manager with **ceded** jurisdiction over the resource is not in favor of the designation.

(b) Designation of a resource to the Garfield County Register of Outstandingly Remarkable / Relevant-Important Cultural Resources results in the following:

(1) Owners/managers of designated cultural resources may consider the resource for Areas of Critical Environmental Concern, Wild and Scenic River or other special designation status.

(2) The Garfield County travel Council will be encouraged to include the resource in its tourism related activities.

(3) Resources designated on the **Garfield County Register of Outstandingly Remarkable / Relevant-Important Cultural Resources** ~~Cultural Landmark Register~~ may receive special consideration in the granting of variances or conditional use permits in order to encourage development for the benefit, use and enjoyment by the public.

(4) The County Commission shall record the Outstandingly Remarkable / Relevant-Important Cultural Resources Register designation for each resource with the County Recorder's Office.

(5) Owners/managers of Outstandingly Remarkable / Relevant-Important Cultural Resources may seek assistance from Garfield County in applying for grants or tax credits for rehabilitating or developing their resources for the benefit, use and enjoyment by the public.

(6) Proposed work or management actions on resources designated as Outstandingly Remarkable / Relevant-Important Cultural Resources is subject to the review and approval of the County. The purpose of this review is to ensure the preservation, development and enhancement of cultural properties to the greatest degree possible. This review applies

to individually designated ~~landmark~~ resources, resources located in designated ~~landmark~~ districts, and public resources.

(c) Properties which, in the opinion of the Garfield County Commission, no longer meet the criteria for eligibility may be removed from the Garfield County Register of **Outstandingly Remarkable / Relevant-Important** Cultural Resources after review in a public hearing and proper consideration.

(d) This ordinance provides objective criteria for evaluation and recognition of Outstandingly Remarkable / Relevant-Important Cultural Resources. Absent federal or state authority which overrides this ordinance, actions of public and private entities located in Garfield County shall comply therewith. Actions which do not comply with this ordinance are inconsistent with the Garfield County General Management Plan and are a violation of law.

## **2.14 SCENERY**

(a) Scenery is an integral part of the landscape and is a vital part of the history, custom and culture of an area. This section describes criteria for including elements of Garfield County's scenery in the registers indicated above.

(b) Elements of scenery may be included in the Register of Cultural Resources if it can be graphically described with identifiable limits and meets all of the following criteria:

- (1) It is located within the official boundaries of the county.
- (2) It retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant cultural features.
- (3) It is designated as Class A Scenery or equivalent.
- (4) It has a scenic quality rating greater than 20 or equivalent.
- (5) All of the land proposed for designation meets the criteria

(c) If the scenery does not meet the integrity requirements outlined above, it may qualify for designation if it can be graphically described with identifiable limits and meets one of the following requirements:

- (1) It is directly associated with events of historic importance in the County.
- (2) It is closely associated with the lives of persons who were of historic importance to the County.
- (3) It is locally renowned.

(d) Elements of scenery may be included in the Cultural Landmark Register if it can be graphically described with identifiable limits and meets all of the following criteria:

- (1) It is located within the official boundaries of the county.

(2) It retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant cultural features.

(3) It is designated as Class A Scenery or equivalent.

(4) It has a scenic quality rating greater than 25 or equivalent.

(5) It is specifically named on one of the following:

(A) USGS 7.5 Minute Quadrangle maps

(B) 1:100,000 Surface Management Status maps

(C) Utah State Highway maps

(D) Other maps considered equivalent by the Cultural Preservation Commission.

(6) All of the land proposed for designation meets the criteria

(e) If the scenery does not meet the requirements outlined above, it may qualify for designation if it can be graphically described with identifiable limits and meets one of the following requirements:

(1) It is a specific location and is well known among the residents of the county.

(2) It is directly associated with events or lives of persons who were of historic importance to the County.

(3) It is renown in Southern Utah and is the primary attraction for more than 600 +20 people per year.

(A) Visitor use surveys should be used to document visitation figures.

(B) Visitor use information may be waived if it is common knowledge that minimum visitation figures are met.

(f) Elements of scenery may be included in the Register of Outstandingly Remarkable / Relevant-Important Cultural Resources if it can be graphically described with identifiable limits and meets all of the following criteria:

(1) It is located within the official boundaries of the County.

(2) It is designated as Class A Scenery or equivalent.

(3) It has a Scenic Quality Rating greater than 28 or equivalent.

(4) It has a landform rating of 5 or equivalent.

(5) It has a vegetation rating of 5 or equivalent.

(6) It has a color rating of 5 or equivalent.

(7) It has a scarcity rating of 5 or greater.

(8) It is renown throughout the state.

(9) It is the primary destination for more than 2400 visitors per year as verified by actual visitor counts.

(10) All of the land proposed for designation meets all of the criteria

(g) If the scenery does not meet the requirements outlined above, it may qualify for designation if it can be graphically described with identifiable limits and meets one of the following requirements:

- (1) It is a National Park or National Monument administered by the National Park Service and has a Scenic Quality Rating greater than 28 or equivalent.
- (2) It is part of a congressionally designated area and:
  - (A) Has a minimum Scenic Quality Rating 30.
  - (B) Is the destination of more than 6000 visitors per year as verified by actual visitor counts.
- (3) It is a legislative designated area by the state of Utah and
  - (A) Has a minimum of 28 or equivalent
  - (B) The governor of the State of Utah has requested its inclusion on the Garfield County Register of Outstandingly Remarkable / Relevant-Important Cultural Resources.

(h) No scenery shall be designated on the Register of Outstandingly Remarkable / Relevant-Important Cultural Resources if management actions restrict or prohibit activities or impacts that are lesser in nature than activities or impacts that were used to justify its designated status.

(i) Criteria for identifying Outstandingly Remarkable / Relevant-Important scenery is identified in Section 2.14(f) and Section 2.14(g). The criterion applies to scenic resources in Garfield County whether or not they are proposed for designation on the Register of Outstandingly Remarkable / Relevant-Important Cultural Resources. Scenic resources that fail to meet the criteria identified in Section 2.14(f) and Section 2.14(g) are not Outstandingly Remarkable or Relevant-Important.

(j) This ordinance provides objective criteria for evaluation and recognition of Outstandingly Remarkable / Relevant-Important Scenery. Absent federal or state authority which overrides this ordinance, actions of public and private entities located in Garfield County shall comply therewith. Actions which do not comply with this ordinance are inconsistent with the Garfield County General Management Plan and are a violation of law.

## **2.15 SEVERABILITY**

The provisions of this ordinance are severable.

## **2.16 REPEALER**

The provisions of all prior ordinances which are inconsistent or in conflict with this Ordinance are hereby repealed.

## **2.17 EFFECTIVE DATE**

(a) This Ordinance shall take effect THIRTY (30) days after its passage or TWENTY (20) days after its publication, whichever is sooner.

(b) The effective date identified in Section 2.17(a) shall apply for all management actions which have a final record of decision (or equivalent) signed after the effective date.

(c) For management actions that have a final record of decision (or equivalent) signed prior to the effective date, the effective date shall be:

(1) The initiation of a new planning process (programmatic, implementation, or project level) that includes management actions that are impacted by the ordinance.

(2) The recommended review/revision date established by agency regulation, policy or guideline.

(3) July 1, 2013 ~~January 1, 2012~~.

(4) Whichever is comes first.

**PASSED, APPROVED, AND ADOPTED** on this **10th** day of **September, 2007** by the Garfield County Commission.

Signatures and Vote: Yes   No

Commission

Chairman: \_\_\_\_\_  
D. Maloy Dodds\_\_\_\_\_

Commission: \_\_\_\_\_  
Clare Ramsay

Commission: \_\_\_\_\_  
Dell LeFevre

ATTEST:

County Clerk: \_\_\_\_\_  
Camille Moore

County Seal:

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